

## **ARTICLE IV - RESIDENTIAL ZONE REGULATIONS**

### **SECTION 400. R-2, R-1, R-1/2, R-1/3 and R-1/5 RESIDENTIAL ZONES**

#### 401. Background and Purposes

These zones are intended to provide for single-family dwellings and accessory uses thereto, to be located on individual lots of minimum specified area in such a way as to preserve the natural beauty and to maintain the health, safety and general welfare of the Town.

It is further the intent of these Regulations to preserve and enhance the well-established residential character of the Town by carefully controlling certain permitted non-residential principal and accessory uses within these zones.

#### 402. Permitted Principal Uses

The following uses shall be permitted subject to approval of a Zoning Permit in accordance with Subsection 1102:

- a. A single, detached one-family dwelling on its own lot.
- b. Public schools and public parks.
- c. Private open space reservations, wildlife sanctuaries, flood protection and conservation areas, where the foregoing are retained in a natural and undeveloped condition without buildings of any kind.

#### 403. Permitted Accessory Uses

The following accessory uses shall be permitted. Approval of a Zoning Permit in accordance with Subsection 1102 shall be required for uses indicated by an asterisk:

- a. Home occupations subject to the following conditions:
  - (1) No person, other than those residing in the dwelling, may be employed at, or conduct business on, the premises;
  - (2) The accessory use shall not be noticeable from the exterior of the building or change the exterior appearance of the residential character of the building and shall not have any signs, outside storage, or parking of commercial vehicles;
  - (3) The interior floor area devoted to a home occupation shall not exceed ten percent (10%) of the gross building area or five hundred (500) square feet, whichever is less, including any storage or other area supplementary to such home occupation;
  - (4) The accessory use shall not create any electrical, radio, television or similar interference.

- (5) Except for individual students arriving for the purpose of receiving instruction in academic disciplines or the arts, the accessory use shall not involve patrons, clients or associates coming to the premises or the generation of additional deliveries, traffic or parking.
- b. Keeping of not more than three non-transient roomers or boarders in any dwelling, providing no sign shall be displayed and no separate cooking facilities shall be maintained in connection with such accessory use.
- c. Parking of passenger vehicles and parking of not more than one commercial vehicle not exceeding 3/4 ton capacity, when used in connection with a permitted use, and when stored in a garage.
- d.\* Private garden house, tool house, greenhouse, playhouse, or similar private accessory use, not used for commercial purposes, when used in connection with a permitted use.
- e.\* Docks, landings and boathouses. Such structures shall not accommodate more than two wet slips or moorings and shall be exempt from rear yard setback requirements. No boat shall be occupied or used for living or sleeping quarters.
- f.\* Swimming pools subject to the requirements of Subsection 364.
- g. Farming, as defined in these Regulations, but not including any sale of products on the premises.
- h. Off-street parking as per Section 900.
- i.\* Signs pertaining to a permitted use on a lot, as per Section 920.
- j.\* Any other accessory building or use customarily incidental to a permitted use.
- k. Not more than three recreational vehicles, as defined in these Regulations, provided such shall be:
  - (1) Parked or stored at all times in a fully enclosed structure, or if parked outdoors, located to the rear of the front line of any existing dwelling or other principal building on the same lot, and not within any required accessory building yard space;
  - (2) Recreational vehicles which are stored outdoors shall be effectively screened from view;
  - (3) Not used for living, recreation or business purposes while parked or stored on a residential lot;
  - (4) Directly owned or leased by the owner or tenant of the premises on which they are stored.
- l. Tag sales, subject to provisions of the Town Code of Ordinances.

404. Principal Uses Requiring Special Permits

The following uses shall be permitted subject to approval of a Special Permit in accordance with Section 1000:

- a. Private schools.
- b. Nursery schools.
- c. Churches and other places of worship intended primarily to serve religious needs of the local community.

A columbarium located on church grounds and used solely to contain the remains of deceased persons who have been cremated shall be recognized as a normal church accessory use.

- d. Social, cultural and recreational uses, serving a community need or convenience, and not including any activity carried on primarily for profit.
- e. Municipal buildings and uses of the Town of Darien, and other governmental uses intended primarily to serve the needs of the local community.
- f. Electric transformer stations, telephone exchanges for local service only and water, sewer or natural gas pumping stations or facilities provided the floor area shall not exceed 300 square feet and no yard or building shall be used for storage.
- g. Railways, but not including switching, storage or yards, industrial sidings, repair or service facilities.
- h. Convents and monasteries of religious orders. As an accessory use to such permitted facility, the Commission may permit the providing of overnight accommodations for not more than ten guests on the premises at any one time when such guests are attending for a religious purpose or retreat.
- i. Protected Town Landmarks, in accordance with the provisions of Subsection 1041.
- j. Single-Family Open Space Development in accordance with the provisions of Subsection 1052.

405. Accessory Uses Requiring Special Permits

The following accessory uses shall be permitted subject to approval of a Special Permit in accordance with Section 1000:

- a. The office of a physician, dentist, engineer, attorney, architect, accountant, artist, musician, tutor, consultant, financial or investment advisor or similar professional person when conducted by the owner of the dwelling or a home occupation involving some patron, client or associate visits to the premises may be permitted

by Special Permit as an accessory use in a dwelling subject to the following conditions:

1. Not more than one person who does not reside on the property shall be employed at or work on the premises.
2. The accessory use shall not be noticeable from the exterior of the building or change the exterior appearance of the residential character of the building, except for a permitted sign, and shall not have any outside storage, displays or parking of commercial vehicles or equipment. No parking shall be allowed in the front yard setback.
3. The accessory use shall permit occasional visits by clients, patrons and/or associates (generally not more than a total of six visits per day) to render or receive services. The delivery or sale of tangible products, other than documents is prohibited.
4. A home occupation shall be incidental to the use of a dwelling for residential purposes.
5. Said use shall be conducted within the main dwelling exclusively and shall not exceed an area of ten percent (10%) of the gross building area or five hundred (500) square feet whichever is less, including any storage or other area supplementary to such home occupation. Gross floor shall include the area of all heated and ventilated and thereby habitable rooms and areas within the dwelling unit including basements and habitable attic space.
6. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in any required yard area.
7. No more than one home occupation shall be permitted within a single dwelling unit, or on a lot, or contiguous lots title to which is under common ownership.
8. The operation of any wholesale or retail business, unless it is conducted entirely by mail and does not involve the sale, shipment, storage or delivery of merchandise on the premises, is prohibited.
9. There shall be no separate or distinct entrance or exit way specifically provided for the home occupation in the dwelling or on the premise for the conduct of the home occupation thereon.
10. The accessory use shall not create any electrical, radio, television or similar interferences.
11. Any of the above professions or uses that are, or shall become, more intensive than permitted in the residential zone shall only be permitted in the appropriate non-residential zone. The following uses are, by their

inherent nature and intensity, not appropriate or permitted uses in residential zones: barber shops; beauty parlors; animal hospital; dance studios; real estate offices; mortuaries; restaurant; stables, kennels; metal working; automobile, boat or other vehicle servicing repair, auto body or painting; and other uses as may be determined by the ZEO.

- b. Outdoor recreational uses and tennis courts. The lighting or illumination of recreational facilities is permitted provided that such lighting shall create no hazard or nuisance upon adjacent properties with reference to the following standards:
  - (1) The source of such lights shall be concealed from surrounding residential properties;
  - (2) All lighting shall be located and be of such design that no illumination shall be directed toward surrounding residential properties;
  - (3) No permanent lighting facilities shall be mounted at a height greater than 20 feet above grade.
  - (4) Lighting facilities that are both temporary and portable may be mounted up to 30 feet above grade provided such lighting facilities are:
    - a) Granted by Special Permit to address the unique characteristics and circumstances of the site and its surroundings;
    - b) Located on public (i.e. Town-owned) property; and
    - c) Angled and/or shielded to best prevent direct glare to the surrounding residential properties in compliance with b(1) and b(2), above.
- c. Windmills and similar energy conservation systems that utilize the power of the wind provided:
  - (1) Each lot shall have a minimum area of 40,000 square feet or as required by the applicable zone, whichever is greater;
  - (2) No windmill or similar structure shall exceed 50 feet in height;
  - (3) No windmill or similar structure shall be located in any required yard;
  - (4) The windmill or similar structure shall be set back from all lot lines and from the principal building a distance of at least equal to the height of the windmill or similar structure.
- d. Ground-mounted solar panels and satellite receiving dishes or dish-type antennae provided they:
  - (1) Shall not exceed 15 feet in height or diameter, including all supporting structures;
  - (2) Shall not be located within any required front yard for a principal structure;

- (3) Shall be fully screened from any adjacent property line and the street line;
  - (4) Shall be permanently anchored in compliance with the State Building Code; and
  - (5) Technical literature shall be submitted to supplement any proposed application for the above.
- e. Living accommodations and/or dwelling units in conjunction with a Special Permit use where the applicant clearly demonstrates a reasonable safety, security or similar need to have an employee or specified number of employees reside on the premises.

406. Area and Bulk Requirements

The requirements listed for each zone as designated shall be deemed to be the minimum or maximum requirements in every instance of their application. Dimensions are in feet unless otherwise indicated.

	<u>R-2</u>	<u>R-1</u>	<u>R-1/2</u>	<u>R-1/3</u>	<u>R-1/5</u>
1. Minimum Lot Area (Square Feet) (See notes e, g)	87,120	43,560	21,780	14,520	8,712
2. Minimum Width (See notes a, b, e)	200	150	100	80	60
3. Minimum Frontage (See notes a, e, h, i)	75	50	50	50	50
4. Minimum Depth (See notes a, e)	200	150	100	100	100
5. Minimum Front Yard (See notes a, b, c, d)	50	40	40	30	25
6. Minimum Side Yard: Least One	35	25	15	10	8
7. Minimum Side Yard: Total of Two (See notes b, e)	70	50	30	25	20
8. Minimum Rear Yard (See note b)	50	40	25	25	25
9. Accessory Structures (See note f)	50	40	40	30	25
9A. Minimum Distance from Front Lot Line					
9B. Minimum Distance from Side Lot Line	35	25	10	5	5
9C. Minimum Distance from Rear Lot Line	50	40	10	5	5
10. Maximum Height in Stories	2-1/2 (All Residential Zones)				
11. Maximum Height in Feet	30 (All Residential Zones)				
12. Maximum Building Coverage	20% (All Residential Zones)				

- a. See Subsections 334 and 339 for application of "minimum width".
- b. See Subsection 333.
- c. In instances where street lines are less than 50 feet apart, the front yard setback shall be measured from the center line of the street right-of-way, and 25 feet shall be added to the required front yard setback.
- d. See Subsection 372 for additional requirements where setback of existing building is greater than minimum requirement.
- e. See Subsection 385 where lots are of non-conforming dimensions.
- f. Detached accessory structures within five feet of a principal structure or over 15 feet or one story in height shall observe the same setbacks as for main buildings.
- g. See Subsection 335.
- h. See Subsection 332.
- i. See Subsection 339.

407. Special Controls

- a. Landscaping, screening and buffer areas shall be provided in accordance with Section 940.
- b. In acting upon any application for residential development, the Commission shall consider the following regarding the acceptability of the proposed plan:

Passive solar and energy conservation techniques shall have been considered in the design of structures, structural orientation, street and lot layout, placement of vegetation, use of natural and man-made topographical features and protection of solar access within a development.

## **SECTION 410. NOROTON BAY DISTRICT RESIDENTIAL ZONE (R-NBD)**

### **411. Background and Purposes**

The Noroton Bay District Residential Zone (R-NBD) is a collection of approximately 77 lots, many of which were created in accordance with a 1926 Map that was filed in the Darien Land Records as Map #341. All of these properties are in the private association known as The Noroton Bay Homeowners Association. There are other properties that are within the immediate area of this district, which have a lot size of one acre or more, and therefore, are not included in this District. Streets and storm drainage systems in the neighborhood are privately owned and maintained. About twenty eight of the seventy seven lots were originally created with a size of approximately eight-thousand to eight-thousand four hundred square feet, or a little more than one-sixth of an acre. Houses are now constructed on a variety of lot sizes, including “single” lots consisting of about 8,000 to 8,400 square feet; “double” lots consisting of about 16,000 to 16,800 square feet; and other varying sizes ranging up to the one plus acres owned by the Noroton Yacht Club.

From the time that zoning was first established in Darien in 1925 until 1946, the portion of Noroton Bay generally outlined in this R-NBD zone was in the “B” Residence Zone, allowing nine families per acre. This area was treated separately and distinctly from the adjacent “A” or “AA” Residence Zones, which extended from Nearwater Lane/Brush Island Road northward, and southward to Pratt Island and Nash Island. In 1946, this distinct area of the Bay was rezoned to “AAA”, allowing one family per acre, i.e., one-acre minimum lot size, thereby rezoning it to be the same as the adjacent areas to the north and south. In 1957, the “AAA” zone was changed to “R-1”, which has been in effect until this rezoning.

During the ensuing years from 1957, many variance applications were received for proposed construction of additions to existing residences or replacement residences because virtually none of the lots in this neighborhood complied with the one-acre minimum lot size, lot width, or lot depth requirements of the R-1 Zone. None of the structures complied fully with all of the building setback and yard requirements. Enactment of Flood Damage Prevention Regulations has required many structures to be elevated as substantial renovations or new construction was proposed. The Flood Damage Prevention Regulations require that the lowest floor (including basement) be at least one foot above the expected flood level. The flood level is generally one to three feet above the existing ground level.

In late October 2012, a storm affected many houses in Noroton Bay, resulting in flood damage to many of the residential structures and the Noroton Yacht Club. In December 2012, FEMA noted that new Flood Insurance Rate Maps (FIRM) would take effect in mid-2013. This would result in most of Noroton Bay, which is now in the AE elevation 10 or AE elevation 11 zones to become AE elevation 14, thus requiring additional elevation of any first floor finished space. This modified FEMA mapping affects almost every house within this zoning district (some of the waterfront properties are currently in the VE-14 flood zone and will not be impacted by the proposed new FIRM). Basements are not permitted within the flood hazard



zones. The Commission wants to encourage property owners to comply with all of the flood damage prevention requirements. Because of the unique nature of this zone, with relatively small lots and all structures within a flood zone, which flood zone elevation is generally four feet or more higher than the adjacent streets, special provisions are included, exempting the first six inches of eave and up to twenty square feet of stair landing/stoop overhangs from Building Coverage, making it easier for property owners to elevate their house to meet applicable FEMA standards.

In the Noroton Bay District zone: the properties and circumstances of this neighborhood are extremely different from the other properties in the R-1 Zone both to the north and south of this District; the neighborhood has a unique character; lot sizes within this area of Noroton Bay vary dramatically, oftentimes with small lots adjacent to much larger lots; and all of the properties are within the flood hazard zone. The purposes of the R-NBD Zone are: to create more practical and logical regulations that will allow for the reasonable use of properties without the need for variances; and where possible, re-adaptation of the houses in the neighborhood, while still protecting this neighborhood's character and the other purposes outlined in Section 100 of the Darien Zoning Regulations.

412. Permitted Principal Uses

Permitted principal uses in this zone shall be the same as allowed in all other R-2, R-1, R-1/2, R-1/3 and R-1/5 Zones, as noted in Section 402 of these Regulations.

413. Permitted Accessory Uses

Permitted accessory uses in this zone shall be the same as allowed in all other R-2, R-1, R-1/2, R-1/3 and R-1/5 Zones, as noted in Section 403 of these Regulations.

414. Principal Uses Requiring Special Permits

Principal uses requiring a Special Permit in accordance with Section 1000 shall be the same as allowed in all other R-2, R-1, R-1/2, R-1/3 and R-1/5 Zones, as noted in Section 404 of these Regulations.

415. Accessory Uses Requiring Special Permits

Accessory uses requiring a Special Permit in accordance with Section 1000 shall be the same as allowed in all other R-2, R-1, R-1/2, R-1/3 and R-1/5 Zones, as noted in Section 405 of these Regulations.

416. Area and Bulk Requirements

The requirements listed for the Noroton Bay District Residential Zone (R-NBD) shall be deemed to be the minimum or maximum requirements in every instance of their application. Dimensions are in feet unless otherwise indicated.

	Noroton Bay District
<b>1. Minimum Lot Area (Square Feet) (See notes c, e)</b>	<b>25,000</b>
<b>2. Minimum Width (See notes a, b, c)</b>	<b>80</b>
<b>3. Minimum Frontage (See notes a, c, f, g)</b>	<b>50</b>
<b>4. Minimum Depth (See notes a, c)</b>	<b>100</b>
<b>5. Minimum Front Yard (See notes a, b) As measured from the front property line(s).</b>	<b>30</b>
<b>6. Minimum Side Yard: Least One</b>	<b>15</b>
<b>7. Minimum Side Yard: Total of Two (See notes b, c)</b>	<b>30</b>
<b>8. Minimum Rear Yard (See note b)</b>	<b>25</b>
<b>9. Accessory Structures (See note d and g)</b>	
<b>9A. Minimum Distance from Front Lot Line</b>	<b>30</b>
<b>9B. Minimum Distance from Side Lot Line</b>	<b>15</b>
<b>9C. Minimum Distance from Rear Lot Line</b>	<b>25</b>
<b>10. Maximum Height in Stories</b>	<b>2 ½</b>
<b>11. Maximum Height in Feet</b>	<b>30</b>
<b>12. Maximum Building Coverage (as percentage of lot area)</b>	<b>20%</b>

- a. See Sections 334 and 339 for application of "minimum width".
- b. See Section 333.
- c. See Section 385 where lots are of non-conforming dimensions.
- d. Detached accessory structures within five feet of a principal structure or with any portion of the structure over eight (8) feet in height shall observe the same setbacks as for main buildings.
- e. See Section 335.
- f. See Section 332.
- g. Special Provision for Utility Sheds.

No more than one utility shed shall be permitted on each property provided:

1. The maximum width of the shed shall be 8' (eight feet) and the maximum length of the shed shall be 8' (eight feet);
2. The highest part of the roof shall not be more than 8' (eight feet) above the highest point of the adjacent ground;
3. The shed must comply with the front yard setback, and shall be not less than 2' (two feet) from the side lot line and not less than 2' (two feet) from the rear lot line, and on properties adjacent to coastal waters the shed shall comply with the 25' (twenty-five foot) rear yard setback;
4. The shed must comply with the Flood Damage Prevention requirements;
5. The shed must comply with all Zoning and Building Permit requirements and will be counted as part of the maximum permitted building coverage.

417. Special Controls

- a. Landscaping, screening and buffer areas shall be provided in accordance with Section 940.
- b. In acting upon any application for residential development, the Commission shall consider the following regarding the acceptability of the proposed plan:

Passive solar and energy conservation techniques shall have been considered in the design of structures, structural orientation, street and lot layout, placement of vegetation, use of natural and man-made topographical features and protection of solar access within a development.

- c. All development projects shall incorporate drainage controls that eliminate the drainage impacts (i.e. not increase the peak rate of runoff) of the proposed development to adjacent properties and to the streets. These drainage controls shall be designed to accommodate the 2, 5, 10, 25 and 50 year storms.

## **SECTION 420. MUNICIPAL USE ZONE**

### **421. Background and Purposes**

The Municipal Use Zone is a floating zone which is intended to provide greater flexibility for municipal uses or for uses that are generally conducted by or provided by the Town of Darien to serve a public purpose. These uses frequently are a one of a kind use in the Town – such as the Town Hall, the Public Works garage, the fire fighting training facility, the middle school, the high school, the Darien Library, the Senior Center, the Darien Police station, the EMS headquarters and garage, while others have more than one facility in the Town, but are dispersed in different areas of the community – such as the three Fire Stations, the public elementary schools, public housing, as well as buildings and facilities in the public parks and beaches. In a municipality that is more than ninety-percent developed, it is nearly impossible to find undeveloped parcels for municipal uses or uses serving a public purpose. The application of current regulations frequently limits or precludes the expansion of existing uses to meet future growth requirements. For example, in the residential zones, a 30 foot maximum building height applies to most municipal and public use buildings including the Darien Town Hall, the Darien Police Department, the Noroton and Noroton Heights the volunteer fire departments, the volunteer EMS service and all public schools. Those uses located in the commercial zones are subject to even more restrictive building height limitations of 25 feet or 28 feet. These requirements restrict necessary growth, encourage footprint sprawl, increase building costs and decrease available open space. The intent of this Municipal Use Zone is to permit flexibility in building height, parking and buffer requirements primarily to permit vertical expansion in lieu of expansion of building and structural footprints. Such flexibility shall be granted only where the Commission determines the appropriateness of a particular location for the zone, and only after Special Permit approval of the specific use and facility. Not all municipal existing or proposed uses or properties will be appropriate for the Municipal Use Zone, but the creation and placement of the MU zone provides for greater flexibility for the Town to provide essential services to the community while still protecting the high quality of development and character of the town and protecting the properties in proximity to municipal facilities.

### **422. Principal Uses Requiring Special Permit**

The following uses shall be permitted subject to approval of a Special Permit in accordance with Section 1000, and then a Zoning Permit in accordance with Subsection 1102 and the standards set forth below:

- a. Municipal buildings, structures and uses (including facilities of the Darien Board of Education).
- b. Buildings, structures and uses that serve a public purpose, not including uses carried on primarily for profit, that would normally be constructed by and or operated by the municipality, but which are under the auspices of a quasi-municipal entity such as the Darien Library Inc., or Post 53 EMS service, or one of the three privately operated volunteer fire departments.

423. Permitted Accessory Uses

The following uses shall be permitted subject to approval of a Special Permit in accordance with Section 1000, and then a Zoning Permit in accordance with Subsection 1102 and the standards set forth below:

- a. Signs in accordance with Section 920.
- b. Any building or use customarily incidental to a permitted use and specifically approved by the Commission.
- c. Reasonable and appropriate off-street parking and loading facilities in accordance with Section 900 as those requirements may be adjusted by the Commission in each instance based upon a review of the specific location, design and circumstances of the existing and/or proposed use.
- d. Accessory food services, consisting of the sale of prepared food for consumption on the premises by visitors and employees.

424. Area and Bulk Requirements

The following requirements shall be deemed to be the minimum or maximum requirements in every instance of their application. Dimensions are in feet unless otherwise indicated.

Minimum Lot Area	none
Minimum Lot Frontage	50
Minimum Lot Width (at building location)	60
Minimum Lot Depth (at building location)	100
Minimum Front Yard	25
Minimum Side Yard (See note a)	25
Minimum Rear Yard (See note a.)	25
Maximum Height: (See note b)	
-in Stories	2 and one half stories
- Building Height As defined by Section 210	30 feet
-highest point of roof above average grade	35 feet
Maximum Building Coverage	20% of the lot area

Notes:

- a. Minimum side and/or rear yard(s) may be reduced to not less than 8 (eight) feet where the abutting property is located in the same or less restrictive zone, and the Commission determines that the placement of the building and/or mechanical equipment such as air conditioning units relative to the property line will not be detrimental to the reasonable use and value of the adjacent property.

- b. In addition, the Commission may authorize a basement or two floors below ground level to be completely finished, habitable space without those areas being counted as a 'story.' Maximum building height as defined by Section 210 may be increased to 40 feet and/or 3 stories above ground and/or 45 feet (from the average grade to the highest point of the roof) provided, either: 1) all of the setbacks for the entire building are increased to at least two times the minimum requirement; or 2) the Commission finds that the unique use and design of the building combined with the location of the site and the development plan will result in a project that will be appropriate for the community and the site specific circumstances and will not be detrimental to the reasonable use and values of the adjacent properties.

425. Special Controls

- a. Necessary lighting of parking areas shall be permitted, but there shall be no unshaded/unshielded light sources and lights shall be so located that their beams are not directed into neighboring residential lots or onto an adjacent street. Due to the unique nature of the uses and the fact that many of the facilities will serve more than one function or use, and because it is not unusual for such facilities to be the location of special events, the number of on site parking spaces shall be subject to a determination by the Commission regarding the adequacy of such parking for most activities and events to take place on the site.
- b. Reasonable and appropriate parking setback requirements as specified in Section 906.6 shall be provided except as those requirements may be adjusted or eliminated by the Commission in each instance based upon a review of the specific location, design and circumstances of the proposed use.
- c. Reasonable and appropriate landscaping, screening and buffering shall be provided in accordance with Section 940, as those requirements may be adjusted or eliminated by the Commission in each instance based upon a review of the specific location, design and circumstances of the proposed use.
- d. All uses shall be subject to Special Permit approval in accordance with Subsection 1000. In general the 25 foot minimum buffer from all property lines to all Special Permit buildings, parking areas and other active use areas shall be maintained, but the Commission may authorize the reduction or elimination of the buffer size in certain specific circumstances where they determine that it would be impossible and/or inappropriate to establish and/or maintain such buffers and the Commission determines that the reduction of the buffer size will not have an unreasonable detrimental impact upon the adjacent property or properties.
- e. The Municipal Use (MU) Zone shall be applied as an overlay zone that keeps the existing, underlying zone in place, and thus provides the property owner with an option to use and develop the site in accordance with the regulations of the existing zone or to utilize the flexibility of the MU zone. Any structures and/or facilities developed in accordance with the Municipal Use Zone are for the specific use as authorized and might not be easily adaptable for conversion to other uses once the municipal use has been discontinued.

## **SECTION 430. ACTIVE SENIOR RESIDENTIAL OVERLAY ZONE**

### **431. Background and Purposes**

Housing for active senior “empty nesters” is an important element of residential development within the Town. Such housing enables older residents to continue to reside in Town by living in specially designed single-family residences. The Active Senior Residential Overlay Zone allows the development of such dwellings, by permitting increased density on larger parcels in the R-1 Zone, while preserving the single-family residential character of the surrounding area. Increased density on larger lots, combined with strict limitations on building coverage and height, provides opportunities for active senior housing. Developments approved pursuant to this Section shall comply with the requirements of the federal Fair Housing Act (42 U.S.C. §§ 3600-3620) and similar state statutes (e.g., CGS 46a-64b, 46a-64c) that pertain to housing for persons sixty-two (62) years of age and older.

### **432. Uses Requiring Special Permits**

The following uses shall be permitted subject to approval of a Special Permit in accordance with Section 1000 and the standards set forth below:

- a. Housing for those age 62 and older shall be permitted by Special Permit only on properties that meet all of the following criteria contained in this Section 430, including Accessory uses allowed in the R-1 Zone.

### **433. Site Requirements—Basic Services**

All development proposed under this Section shall give due consideration to proximity to services such as public utilities, available forms of public transportation within the community, shopping facilities, and access to major highways and commuter roads. An analysis of the availability of such services shall be submitted as part of any application to demonstrate that the requirements of this Subsection have been fulfilled. At a minimum, the site must be:

- a. in the R-1 Residence Zone;
- b. of at least three acres in size; and
- c. served by public water and public sanitary sewer of sufficient capacity to serve the development.

### **434. Age Restriction**

All dwellings allowed under this Section 430 shall be occupied only by persons age 62 years of age or older. Prior to the issuance of a Zoning Permit for commencement of construction, a restrictive covenant or declaration identifying the location and unit number and street address and current owner(s) (or occupants if a rental unit) of each dwelling unit and describing the age restriction must be recorded on the Darien Land Records. The deed restriction or declaration must be approved by the Planning and Zoning staff and Town Counsel prior to being recorded on the Darien Land Records, and shall be binding upon all future use of the dwelling(s).

#### 435. Area and Bulk Requirements

The following requirements shall be deemed to be the minimum or maximum requirement in every instance of their application. Dimensions are in feet unless otherwise indicated.

1. Minimum Lot Area	3 acres
2. Minimum Lot Width	200 feet
3. Minimum Street Frontage	200 feet
4. Minimum Lot Depth	200 feet
5. Minimum Front Yard	40 feet
6. Minimum Side Yard- each side	25 feet
7. Minimum Side Yard- total of two sides	50 feet
8. Minimum Rear Yard	40 feet
9. Accessory Structures	
9A. Minimum Distance from Front Lot Line	40 feet
9B. Minimum Distance from Side Lot Line	25 feet
9C. Minimum Distance from Rear Lot Line	40 feet
10. Maximum Height in Stories (see Note 1)	2 ½ stories
11. Maximum Height in Feet	28 feet
12. Maximum Building Coverage	15%
13. Maximum Developed Site Area (see Note 2)	60%
14. Minimum Distance between Structures	20 feet
15. Maximum Finished Floor Area per Dwelling Unit (see Note 1 and Section 438c)	3,000 square feet
16. Maximum Number of Dwelling Units (round down to the nearest whole number. See Section 438e)	2 per acre

Note 1: The Regulations allow for the finishing of up to ½ of the basement. No attic space is allowed to be finished at all. Any finished space in the basement does not count towards the 3,000 square foot maximum in Item 15.

Note 2: The definition of Developed Site Area set forth in Section 210 shall apply to developments created under this Section.

Note 3: Each elderly below market-rate housing unit required to be constructed or acquired shall be at least 800 square feet in size, and the average size of all of the elderly below market rate housing units associated with the development shall be equal to or greater than 50% of the average size of the on-site market rate units within the development. Each elderly below market-rate housing unit shall be no less than 800 square feet in size, and have no less than the average of the number of bedrooms in the on-site market rate units, rounded down. See Section 438 regarding below market rate housing units.

#### 436. Special Controls

- a. One common driveway shall serve all dwelling units and structures on the site, provided that the Commission may require an additional means of access for emergencies only.



- b. No structures, swimming pools, or sports courts shall be located within the minimum yard areas. Terraces at grade may be located at least 25 feet from property boundaries, where the Commission finds that such terraces are adequately screened to avoid negative impacts to abutting streets and residential properties. Power transformers and similar public utility equipment serving only the development may be located within required yards, where the Commission finds that such equipment is adequately screened to avoid negative impacts to abutting streets and residential properties.
- c. All required yards shall consist of natural or landscaped screening from abutting properties and streets. The minimum 25 foot buffer requirements of Section 944 shall apply to this Special Permit use within the R-1 Zone.
- d. Only single-family and two-family dwellings shall be permitted. No more than two dwelling units shall be located within the same building.
- e. On-site parking shall be provided in accordance with Section 904a.
- f. Finished, occupied space shall be located only on up to two and one-half (2-1/2) levels within a building (the first floor and second floor and a portion of the basement), but not in an attic. Any attic shall remain unfinished and shall be used only for mechanical equipment and/or for storage.

437. Conservation Area Requirement

Developments under this Section shall include an area of at least ten (10) percent of the total lot area as conservation area, subject to a conservation easement recorded on the Darien Land Records. The conservation easement area may include some or all of the required buffer area as well as other portions of the site as may be appropriate. The conservation easement document shall be approved by the Planning and Zoning staff and Darien Town Counsel, and recorded on the Land Records prior to the issuance of Zoning and Building Permits for construction of new structures on the development site.

438. Requirement for below-market rate units

- a. A below market rate dwelling unit is one which is affordable to households with an income equal to or less than 80 percent of the State Median Income for the State of Connecticut. All below market rate units constructed (or acquired) and deed-restricted under this Section shall comply with the age restrictions in Section 433.
- b. To calculate the minimum number of elderly below market rate units required to be constructed (or acquired) either on-site or off-site and deed-restricted, the following shall apply:
  - Less than 5 market-rate elderly units: 0 elderly below market rate units
  - 5-6 market-rate elderly units: 2 elderly below market rate units
  - 7-9 market-rate elderly units: 3 elderly below market rate units
  - 10-12 market-rate elderly units: 4 elderly below market rate units

One elderly below market rate unit shall be constructed (or acquired) and deed-restricted for each three elderly market rate units thereafter. (Round any fractional requirement for below market rate units up to the nearest whole number).

- c. Each elderly below market-rate housing unit required to be constructed or acquired must comply with both of the following requirements: a) the average size of all the below market-rate units shall be at least 50% of the average size of the on-site market rate elderly units constructed; and b) each unit shall not be less than 800 square feet in size. Any on-site elderly below market rate housing unit shall have no less than the average of the number of bedrooms in the on-site market rate units, rounded down.
- d. Section 580 (Inclusionary Zoning) provisions for incentives, density bonus, and for requiring below market rate dwelling units are not applicable to the use of the Active Senior Residential Overlay Zone, since this overlay zone has a separate below market rate requirement.
- e. The total number of units on-site (market rate and below market-rate) shall not exceed a density of 2.0 per acre in the R-1 Zone. Any additional required below market-rate units beyond that density must be constructed or acquired off-site.

439. Program Administration

The administration of the below market rate unit(s) shall comply fully with Sections 586 and 587 of the Darien Zoning Regulations.

440. Consistency with Other Regulations

To the extent not modified by this Section 430, all other zoning regulations governing development within the R-1 Residence Zone shall apply to developments under this Section 430.